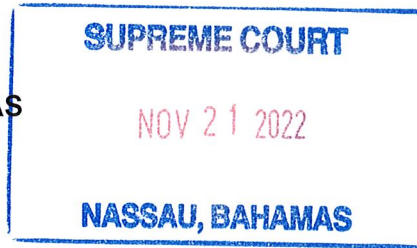


COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT
COMMERCIAL DIVISION



2022/COM/com

IN THE MATTER OF the Digital Assets and Registered Exchanges Act, 2020
(as amended)

AND IN THE MATTER OF FTX DIGITAL MARKETS LTD.
(A Registered Digital Asset Business)

BETWEEN

SECURITIES COMMISSION OF THE BAHAMAS

Plaintiff

AND

FTX DIGITAL MARKETS LTD.

Defendant

SECOND AFFIDAVIT OF CHRISTINA R. ROLLE

I, **CHRISTINA R. ROLLE**, Executive Director of The Securities Commission of The Bahamas (“the Commission”) of the Island of New Providence, one of the Islands of the Commonwealth of The Bahamas, **MAKE OATH AND SAY** as follows:

1. I make this Affidavit on behalf of the Commission, the Plaintiff herein, in my capacity as the Executive Director of the Commission.
2. The facts and matters referred to herein are, unless otherwise stated, within my own knowledge or are obtained from information and documents in possession of the Commission and are true to the best of my knowledge, information and belief. Where the matters deposed hereto are not

within my knowledge, they are derived from the sources which I identify and are true to the best of my information and belief.

3. I make this Affidavit in support of the Summons issued on behalf of the Commission for supplemental orders to be made by this Honourable Court in connection with the action taken by the Commission in its capacity as regulator, on 12 November, 2022 respecting the digital assets of FTXDM for the purpose of protecting the interest of its clients and creditors.
4. On 12 November, 2022, the Commission issued and served an administrative sanction order to FTXDM in respect of their failure to provide information regarding their business operations as urgently directed by the Commission and their failure to deal co-operatively with the Commission in breach of the requirements of section 25 of the Digital Assets and Registered Exchanges Act, 2020 (“the DARE Act”). There is now produced and shown to me and marked as **Exhibit CRR-1**, a true copy of the sanction order.
5. In addition to issuing the administrative sanction order, on 12 November, 2020 an urgent ex parte application was made on behalf of the Commission to The Honourable Justice Klein for leave to commence proceedings against FTXDM and for an order authorizing the Commission to take certain immediate regulatory action, it considered necessary, to protect the assets of FTXDM in the interest of its clients and creditors pursuant to section 46 of the DARE Act.
6. Specifically, as regulator, the Commission urgently sought judicial authorization to direct FTXDM, whether by its Provisional Liquidator or otherwise, to transfer forthwith to an account and/or digital wallet(s) established and maintained by The Securities Commission of The Bahamas all of the digital assets on the FTX.com platform within the possession, custody and/or under the control of FTXDM, its officers, directors, employees and/or agents, including any digital assets held upon trust by FTXDM, on the grounds that such action is necessary to protect the interests of clients and creditors of FTXDM and otherwise in the public interest to do so
7. The background to the urgent ex parte application before The Honourable Justice Klein has been set forth in my earlier Affidavit filed on 15 November, 2022 pursuant to the undertaking given at the ex parte hearing on 12 November, 2022.

8. I wish to add, the Commission's decision to apply for a court order to enable it to take swift regulatory action to protect the assets in the possession of the FTXDM in the interest of clients and creditors of FTXDM was made against the background that on 12 November 2022, the Commission had been informed by Samuel Bankman-Fried that there had been a security breach in relation to the assets. Additionally, the provisional liquidator also informed the Commission that he had received information (which he had been unable to verify) that unauthorized transfer(s) of digital assets of FTXDM had, in fact, occurred on the prior day. This information suggested certain wallets had been hacked by individuals unknown to the provisional liquidator or FTXDM.
9. Although the Order issued by The Honourable Justice Klein on 12 November 2022 expressly states the Commission's action to assume custody and control of the said digital assets was carried out in its capacity "as regulator" on grounds that such action was "necessary to protect the interests of clients and creditors of FTX Digital Markets Ltd. and otherwise in the public interest to do so", questions have been raised in the public domain concerning the basis upon which the digital assets are being held by the Commission. It has also been wrongly asserted in media reports in the public domain that the said digital assets were taken, or seized, by 'the Bahamas government'.
10. The Commission has received, and continues to hold, the digital assets as a trustee within the meaning of the Trustee Act, 2022 upon a trust for benefit of the clients and creditors of FTXDM, pending directions being issued in the extant proceeding to wind-up FTXDM to the joint provisional liquidators and/or the Commission respecting the continued safe custody of the assets.
11. I am advised by counsel and attorneys for the Commission in these proceedings and I verily believe that, as trustee, the Commission has been, and continues to be, entitled to exercise a right of indemnity and right of reimbursement of expenses afforded to a trustee under the law, including under the provisions of the Trustee Act.

12. I therefore respectfully urge this Honourable Court to make the supplemental orders, as prayed, to further clarify the circumstances in which the said regulatory and administrative action was taken by the Commission in relation to the digital assets of FTXDM and the capacity in which the digital assets have been held, and continue to be held, by the Commission.

SWORN TO at Nassau,)
New Providence, this 18th)
day of November, A.D., 2022)

Chikh

Before me,

Dele

NOTARY PUBLIC



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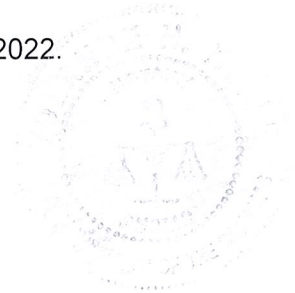
Defendant

CERTIFICATE

I **HEREBY CERTIFY** that this is the Exhibit marked "CR-1" mentioned and referred to in the Affidavit of Christina R. Rolle dated and sworn to before me this 18th day of November, A.D., 2022.



NOTARY PUBLIC





Poinciana House
North Building, 2nd Floor
31A East Bay Street
PO Box N-8347
Nassau, The Bahamas

URGENT

VIA EMAIL: sam@ftx.com;

12 November 2022

Samuel Bankman-Fried
CEO
FTX Digital Markets
Veridian Corporate Centre
Building 27
Western Road
Nassau, Bahamas

Re: Notice of Order – FTX Digital Markets Ltd (“FTXDM”)

1. Reference is made to our earlier email message sent on 9 November 2022 to Mr. Sam Bankman-Fried and Ms. Jessica Murray of FTXDM at 10:17 a.m. in which The Securities Commission of The Bahamas (“the Commission”) made a request for certain information respecting the assets and business operations of FTXDM to be provided to the Commission by on urgent basis, but no later than the end of the day on 9 November, 2022. Copies of the email message is enclosed for ease of reference. Specifically, the Commission made a request for the following information; namely
 - (i) the number of clients registered on the FTXDM platform;
 - (ii) the total number of assets held for all FTXDM clients and whether those assets are held in a segregated account;
 - (iii) the total value of client withdrawal requests that were unsatisfied between 2 November 2022 and 9 November 2022 and how many, if any, of those withdrawal requests remain outstanding;
 - (iv) the extent to which FTXDM client assets may have been invested, loaned, used as collateral or otherwise hypothecated or encumbered by or on behalf of FTXDM, Alameda Capital, other related parties and/or third parties;
 - (v) which FTX Group entity is a party to the non-binding Letter of Intent with Binance, its terms and the potential impact on clients of FTXDM;
 - (vi) details of the connection, if any, between FTXDM and Alameda Capital and, in particular, whether any services were provided by Alameda Capital to FTXDM or vice versa and/or whether there were any related party or counterparty transactions between Alameda Capital to FTXDM
 - (vii) a sample of the client agreements, including General Terms and Conditions for the Commission's review.

2. FTXDM failed to provide the information requested by the Commission.

3. By virtue of section 25 (1) of the Digital Assets and Registered Exchanges Act, 2020 (“DARE Act or the Act”), every digital asset business and issuer must comply with the requirements of the Act and (a) deal openly, honestly and co-operatively with the Commission; (b) duly provide information relevant to the operations of the digital asset business as the Commission may require; and (c) submit to on-site or off-site examinations of the digital asset business as required by the Commission in the exercise of its functions.
4. Under section 46 (1) of the Act, where a digital asset business has failed to comply with their obligations under the Act, the Commission may impose an administrative sanction for such failure, including but not limited, imposing conditions on a registrant, applying to the court for an order to take such action as the Commission considers necessary to protect the interest of clients or creditors and imposing any other remedies as the circumstances of the case may require.
5. In light of recent information within the public domain regarding the illiquidity of FTXDM, the Commission considers the failure of FTXDM to provide the information requested above, constitutes a serious failure by FTXDM to deal co-operatively with the Commission and a failure to provide information relevant to the business operations of FTXDM as required by the Commission in breach of their duty under section 25 (1) of the DARE Act.
6. In the circumstances, the Commission also considers it necessary to issue an order that FTXDM transfer to an account and/or digital wallet(s) established and maintained by the Commission all of the digital assets on the FTX.com platform within the possession, custody and/or under the control of FTXDM, its officers, directors, employees and/or agents, including any digital assets held upon trust, in order to protect the interests of clients and creditors of FTXDM.
7. Accordingly, the Commission HEREBY ISSUES THE FOLLOWING DIRECTIVE AND ORDER:

FTX Digital Markets Ltd. is to transfer to an account and/or digital wallet(s) established and maintained by the Commission all of the digital assets on the FTX.com platform within the possession, custody and/or under the control of FTXDM, its officers, directors, employees and/or agents, including any digital assets held upon trust, in order to protect the interests of clients and creditors of FTXDM.

Yours sincerely,



Christina Rolle
Executive Director

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2022/COM/com

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New Providence, The Bahamas

Attorneys for the Plaintiff

RKA/EJM/sjs 0833-2949